

SITTING AS COURT OF IMPEACHMENT

JOURNAL OF THE SENATE

(Excerpt from Senate daily Journal of Friday, June 14, 1963 Regular Session)

The Senate convened at 2:30 o'clock P. M., pursuant to the motion made by Senator Cross this day, for the purpose of organizing the Body as a Court of Impeachment to try the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, on the Articles of Impeachment preferred against him by the House of Representatives and exhibited to the Senate on June 5, 1963, by the Managers appointed by the House of Representatives.

The President in the Chair.

The roll was called and the following Senators answered to their names:

Mr. President	Cross	Johns	Roberts
Askew	Davis	Johnson (6th)	Ryan
Barber	Edwards	Kelly	Spottswood
Barron	Fraser	McCarty	Stratton
Blank	Friday	Mapoles	Usher
Bronson	Galloway	Mathews	Whitaker
Campbell	Gautier	Melton	Williams (27th)
Clarke	Gibson	Parrish	Williams (4th)
Cleveland	Henderson	Pearce	Young
Connor	Herrell	Pope	
Covington	Hollahan	Price	

—42.

A quorum present.

REPORT OF COMMITTEE

The following Report of the Committee on Rules and Procedure was received and read:

*The Honorable Wilson Carraway
President, The Florida Senate*

Sir:

Your Committee appointed to promulgate rules and procedure for the impeachment trial of Honorable Richard Kelly, Judge, Sixth Judicial Circuit in and for Pasco County, State of Florida, submits herewith the following Report and recommends the adoption of the following rules to govern the procedure of the Senate while sitting as a Court of Impeachment:

FLORIDA

RULES OF PROCEDURE AND PRACTICE IN THE SENATE WHEN SITTING ON THE TRIAL OF IMPEACHMENTS

1. Whensoever the Senate shall receive notice from the House of Representatives that Managers are appointed on their part to conduct an impeachment against any person, and are directed to carry Articles of Impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the Managers for the purpose of exhibiting such Articles of Impeachment agreeable to said notice.

2. When the Managers of an impeachment shall be introduced at the bar of the Senate, and shall signify that they are ready to exhibit Articles of Impeachment against any person, the presiding officer of the Senate shall direct the Sergeant At Arms to make proclamation, who shall,

after making proclamation, repeat the following words, viz: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the State of Florida Articles of Impeachment against _____," after which the Articles shall be exhibited, and then the presiding officer of the Senate shall inform the Managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives or to the Managers when the House is not in session.

3. Upon such Articles being presented to the Senate, the Senate shall, at 11:00 o'clock A. M., of the day fixed to commence the consideration of such Articles proceed to the consideration of such Articles, and shall continue in session from day to day (Sundays excepted) after the trial shall commence (unless otherwise ordered by the Senate) until final judgment shall be rendered, and so much longer as may, in its judgment, be needful. Before proceeding to the consideration of the Articles of Impeachment, the presiding officer shall administer the oath hereinafter provided to the members of the Senate then present, and to the other members of the Senate as they shall appear, whose duty it shall be to take the same.

4. The Chief Justice of the Supreme Court of the State of Florida shall preside at all trials by impeachment except in the trial of the Chief Justice, when the Governor shall preside, and notice shall be given to him by the presiding officer of the Senate of the time and place fixed for the consideration of the Articles of Impeachment, as aforesaid, with a request to attend, and the Chief Justice shall preside over the Senate during the consideration of said Articles, and upon the trial of the person impeached therein.

5. The presiding officer shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules, or by the Senate, and to make and enforce such other regulations and orders in the premises as the Senate may authorize or provide.

6. The Senate shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of and disobedience to its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful orders, rules and regulations, which it may deem essential or conducive to the ends of justice. And the Sergeant At Arms, under the direction of the Senate, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of the Senate.

7. The presiding officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the presiding officer upon the trial shall direct all the forms of proceeding while the Senate is sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. The presiding officer of the court may rule on all questions of evidence and incidental questions, which rulings stand as the judgment of the court, unless some member of the court

shall ask that a formal vote be taken thereon, in which case it shall be submitted to the court for decision, or he may, at his option, in the first instance submit any such question to a vote of the members of the court.

8. Upon the presentation of Articles of Impeachment and the organization of the Senate as hereinbefore provided, a writ of summons shall be issued to the accused, unless the accused waive the issuance of such writ and service thereof and voluntarily appears at the bar of the Senate, reciting said Articles, and notifying him to appear before the Senate upon a day and at a place to be fixed by the Senate and named in such writ, and file his answer or plea to said Articles of Impeachment, and to stand and to abide the orders and judgments of the Senate thereon; which writs shall be served by such officers or persons as shall be named in the precept thereof, at least one day prior to the day fixed for such appearance, as shall be named in such precept, either by the delivery of an attested copy thereof to the person accused, or, if that cannot conveniently be done by leaving such copy at last known place of abode of such person, or at his usual place of business, in some conspicuous place therein; or if such service shall be, in judgment of the Senate, impracticable, notice to the accused to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid the proceedings shall not thereby abate, but further service may be made in such manner as the Senate shall direct. If the accused, after service, shall fail to appear, either in person or by attorney, on the day so fixed therefor as aforesaid, or appearing, shall fail to file his answer to such Articles of Impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty which may be entered by the presiding officer for the accused. If a plea of guilty shall be entered judgment may be entered thereon without further proceedings.

9. At 11:00 o'clock A. M., of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, if in legislative session, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, viz:

"I, _____ do solemnly swear that the return made by me upon the process issued on the _____ day of _____, 19____, by the Senate of the State of Florida against _____

is truly made, and that I have performed such service as therein described; so help me God."

Which oath shall be entered at large on the records. Should service of summons be waived then this oath may be dispensed with.

10. The person impeached shall then be called to appear and answer or plead to the Articles of Impeachment against him. If he appear, or any person for him, the appearance shall be recorded, stating particularly if by himself, or by agent or attorney, naming the person appearing, and the capacity in which he appears. If he do not appear, either personally or by agent or attorney, the same shall be recorded.

11. At 11:00 o'clock A. M., of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, if in legislative session, and the Secretary shall give notice to the House of Representatives, if the House be in session, and if not in session, then to the board of managers that may have been named by the House, that the Senate is ready to proceed upon the impeachment of _____, in the Senate chamber, which chamber is prepared with accommodations for the reception of the House of Representatives, if the House be in session, and if the House

be not in session, is ready to receive the board of managers that may have been appointed by the House.

12. The hours of the day at which the Senate shall sit upon the trial of an impeachment shall be designated by the presiding officer unless otherwise ordered by the Senate, and when the hour for such sitting shall arrive, the presiding officer of the Senate shall so announce; and thereupon the presiding officer upon such trial shall cause proclamation to be made and the business of the trial shall proceed. The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate if in legislative session, but on such adjournment the Senate shall resume the consideration of its legislative and executive business.

13. The proceedings of the Senate while sitting as a court of impeachment shall be recorded under the direction of the Secretary of the Senate, and published within 90 days after the final adjournment of the court of impeachment. Two copies of the record of the proceedings together with two attested copies of the transcript of testimony shall be filed as a permanent record of the Senate. One copy of the record of proceedings together with one copy of the transcript of testimony shall be filed in the office of the Attorney General of Florida.

14. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

15. All motions made by the parties or their counsel shall be addressed to the presiding officer, and if he, or any Senator, shall require it, they shall be committed to writing, and read at the Secretary's table.

16. Witnesses shall be examined by one person on behalf of the party producing them, and then cross-examined by one person on the other side, unless otherwise authorized by the presiding officer.

17. If a Senator is called as a witness he shall be sworn and give his testimony standing in his place, unless otherwise authorized by the presiding officer.

18. If a Senator wishes a question to be put to a witness, or to offer a motion or order (except a motion to adjourn) it shall be reduced to writing, and put by the Chief Justice of the Supreme Court as Presiding Officer.

19. At all times while the Senate is sitting upon the trial of an impeachment the doors of the Senate shall be kept open, unless the Senate shall direct the doors to be closed while deliberating upon its decisions.

20. All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one-half hour on each side, unless the Senate shall, by order, extend the time.

21. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate, upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives or its managers or attorneys.

22. On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each Article of Impeachment separately; and if the impeachment shall not, upon any of the articles presented, be sustained by the concurrence of two-thirds of the Senators present, a judgment of acquittal shall be entered; but if the person accused in such Articles of Impeachment shall be convicted upon any of said Articles by the concurrence of two-thirds of the Senators present, the Senate shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of State.

23. All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the

record, and without debate, subject, however, to the operation of rule 7, except when the doors shall be closed for deliberation, and in that case no member shall speak more than once on one question and for not more than five minutes on an interlocutory question, and for not more than ten minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be decided without the yeas and nays, unless they be demanded by one-fifth of the members present.

24. A. Witnesses shall be sworn in the following form, namely:

"You,, do swear (or affirm, as the case may be) that the evidence you shall give in the case now pending between the State of Florida and shall be the truth, the whole truth, and nothing but the truth; so help you God."

Which oath shall be administered by the Secretary or any other duly authorized person.

B. Form of subpoena to be issued on the application of the Managers of the impeachment, or of the party impeached, or of counsel:

The State of Florida, to, greeting:

You and each of you are hereby commanded to appear before the Senate of the State of Florida on the day of, 19, at the Senate Chamber, in the Capitol building, in the City of Tallahassee, then and there to testify your knowledge in the cause which is before the Senate, in which the House of Representatives has impeached

Fail not.

Witness and presiding officer of the Senate, at the City of Tallahassee, Florida, this day of, in the year of our Lord, 19

C. Form of direction for the service of said subpoena:

The State of Florida, to, greeting:

You are hereby commanded to serve and return the within subpoena according to law.

Dated at Tallahassee, Florida, this day of in the year of our Lord, 19

Secretary of the Senate

D. Form of oath to be administered to the members of the Senate sitting in the trials of impeachments:

"I solemnly swear (or affirm, as the case may be), that in all things appertaining to the trial of the impeachment of, now pending, I will do impartial justice according to the Constitution and Laws of the State of Florida; so help me God."

E. Form of summons to be issued and served upon the person impeached:

The State of Florida, greeting:

Whereas, The House of Representatives of the State of Florida did on the day of, 19, exhibit to the Senate Articles of Impeachment against you, the said, in the words following:

(Here insert the Articles.)

And demand that you, the said should be put up to answer the ac-

cusations as set forth in said Articles, and that such proceedings, examinations, trials and judgments might be thereupon had as are agreeable to the law and justice.

You, the said are therefore hereby summoned to be and appear before the Senate of the State of Florida, at their chamber, in the City of Tallahassee, Florida, on the day of, 19, at 11:00 o'clock A. M., then and there to answer to the said Articles of Impeachment, and then and there to abide by, obey and perform such orders, directions and judgments as the Senate of the State of Florida shall make in the premises according to the Constitution and laws of the State of Florida.

Hereof you are not to fail.

Witness and presiding officer of the said Senate at the City of Tallahassee, Florida, this day of, in the year of our Lord, 19

F. Form of precept to be endorsed on said writ of summons:

The State of Florida, to greeting:

You are hereby commanded to deliver to and leave with, if conveniently to be found, or, if not, to leave at his usual place of abode, or his usual place of business, in some conspicuous place, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichever way you perform the service let it be done at least one day before the appearance day mentioned in said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon endorsed, on or before the appearance day mentioned in the said writ of summons.

Witness and presiding officer of the Senate, at the City of Tallahassee, Florida, this day of, in the year of our Lord, 19

All process shall be served by the Sergeant At Arms of the Senate, unless otherwise ordered by the court.

25. If the Senate shall at any time fail to sit for the consideration of Articles of Impeachment on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for resuming and consideration.

26. The Senate may, at its pleasure, by a majority vote, adjourn the hearing of the case and hear same in the hall of the House of Representatives.

27. There may be admitted to the floor of the Senate, when sitting as a court of impeachment, only the Chief Justice of the Supreme Court of Florida and his assistants, the Senators, the Secretary of the Senate and his assistants, the Sergeant At Arms and his assistants, the defendant and his attorney or attorneys, the House Managers and their attorneys, authorized members of the press, necessary court reporters, and witnesses called to testify in the case.

28. Admissions to the Center Section of the Gallery shall be by admission card only.

29. The taking of pictures, photographs, tape and other recordings, including movies, television and other pictures, and similar devices, are prohibited in the Senate Chamber while the Court is in Session. This rule shall not prevent the use of recording instruments by reporters making a record or transcript of the proceedings as a public record.

30. If necessary to meet the ends of justice, rules may be amended, or new rules may be adopted by a majority vote of the members of the Senate present.

31. The Senate, sitting as a Court of Impeachment, may recess for a period of time on any trial day upon motion adopted by a majority vote of the members present.

32. After testimony has commenced, in case of emergency, any member of the Senate may be excused from further duty in the Impeachment proceedings upon his request therefor being approved by a majority vote of the members of the Senate present, and upon being excused shall not further participate in said proceedings. Any such Senator shall file his reasons for his request to be excused in writing with the Secretary of the Senate and the same shall be incorporated in the transcript of the record. His absence shall not affect the results of the trial.

33. The presiding officer may upon agreement by Counsel for the Managers on the part of the House of Representatives and Counsel for the Defendant conduct a pre-trial conference on procedural matters and shall submit the matters resolved at said pre-trial conference to the Special Committee on Impeachment for the Senate who shall present the same to the Senate with recommendations.

Respectfully submitted,

J. EMORY CROSS

JOHN E. MATHEWS, JR.

JOHN M. McCARTY

C. W. YOUNG

Senator Cross moved the adoption of the rules.

Which was agreed to and the rules of procedure and practice of the Senate while sitting on the trial of impeachments, as read, were adopted.

Senator Cross moved that the Senate proceed to organize the Body as a Court of Impeachment to try the Honorable Richard Kelly, Judge, Sixth Judicial Circuit in and for the County of Pasco, State of Florida, on the Articles of Impeachment preferred against him by the House of Representatives as originally exhibited to the Senate on Wednesday, June 5, 1963, under authority of House Resolution No. 1442 and House Resolution No. 2504, Regular Session of the 1963 Florida Legislature, and upon which order was taken that this body convene at 11:00 o'clock A. M., September 9, 1963, for the purpose of said trial, as set forth in the Journals of the Senate of Wednesday, June 5, 1963, and Friday, June 7, 1963.

The motion was agreed to.

Senator Cross moved that a committee be appointed to wait upon the Honorable B. K. Roberts, Chief Justice of the Supreme Court of Florida, to inform him that the Senate stands ready to organize as a Court of Impeachment and respectfully requests his presence for the purpose of presiding over the Senate during the consideration of said Articles for the trial of the Honorable Richard Kelly.

The motion was agreed to and the President appointed Senators Cross, Mathews, McCarty and Young as the committee.

The committee withdrew.

At 2:40 o'clock P. M., the committee escorted the Chief Justice of the Supreme Court of Florida into the Senate Chamber, accompanied by the Honorable E. Harris Drew, Justice of the Supreme Court of Florida.

The Chief Justice took the Chair and said:

"Senators—I attend the Senate in obedience to your notice for the purpose of joining with you in forming a court of impeachment for the trial of the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, and I am now ready to take the oath."

The oath was administered to the Honorable B. K. Roberts, Chief Justice of the Supreme Court of Florida, by Justice E. Harris Drew in the following words:

"I solemnly swear (or affirm, as the case may be), that in all things appertaining to the trial of the impeachment of the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, now pending, I will do impartial justice according to the Constitution and Laws of the State of Florida; so help me God."

The Chief Justice:

"Senators, the oath will now be administered to you and you will please stand as your names are called and remain standing as the oath is administered."

The Secretary of the Senate proceeded to call the roll of the Senators in alphabetical order and the Chief Justice administered the oath to Senators Askew, Barber, Barron, Blank, Bronson, Campbell, Carraway, Clarke, Cleveland, Connor, Covington, Cross, Davis, Edwards, Fraser, Friday, Galloway, Gautier, Gibson, Henderson, Herrell, Hollahan, Johns, Johnson (6th), Kelly, McCarty, Mapoles, Mathews, Melton, Parrish, Pearce, Pope, Price, Roberts, Ryan, Spottswood, Stratton, Usher, Whitaker, Williams (27th), Williams (4th) and Young in the following words:

"I do solemnly swear that in all things appertaining to the trial of the impeachment of the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, now pending, I will do impartial justice according to the Constitution and Laws of the State of Florida; so help me God."

The Chief Justice then administered the following oath to Robt. W. Davis, Secretary of the Senate:

"I do solemnly swear that I will faithfully and impartially perform the duties of Secretary to the Senate of the State of Florida, sitting as a Court of Impeachment in the trial of the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, now pending, and true and faithful record make of the same, so help me God."

The Chief Justice then administered the following oath to LeRoy Adkison, Sergeant At Arms of the Senate:

"I do solemnly swear that I will faithfully and impartially perform the duties of Sergeant At Arms to the Senate of the State of Florida, sitting as a Court of Impeachment in the trial of the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, now pending, so help me God."

At the direction of the Chief Justice the Sergeant At Arms made the following proclamation:

"Hear ye! Hear ye! Hear ye!"

"All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the State of Florida is sitting for the trial of Articles of Impeachment exhibited by the House of Representatives against the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida."

Senator Cross moved that the rules of procedure and practice in the Senate when sitting on the trial of impeachments adopted by the Senate this day be adopted by the Court of Impeachment.

The motion was agreed to and the rules were adopted.

Senator Cross moved that the following Order be entered by the Senate, sitting as a Court of Impeachment, to-wit:

That the Order of the Honorable B. K. Roberts, Chief Justice of the Supreme Court of Florida, impounding the records of Richard Kelly, Judge, Sixth Judicial Circuit in and for Pasco County, State of Florida, be adopted and entered in the record of these proceedings and that all official records, official memoranda, official files and official documents heretofore delivered by the Sheriff of Pasco County to the Chief Justice of the Supreme Court of Florida, pursuant to the Order of the said Chief Justice on June 6, 1963, shall be forthwith delivered to the Secretary of the Senate who shall hold the same in his possession until the convening of the Court of Impeachment on September 9, 1963, subject to inspection by the Chief Justice, any member of the Senate, Managers or Counsel for Managers on the part of the House of Representatives and Counsel for said Defendant.

That it be further ORDERED that all preliminary motions directed to the Articles of Impeachment and all other preliminary matters shall be filed with the Secretary of the Senate on or before August 16, 1963.

Senator Cross moved the adoption of the Order.

The motion was agreed to and the Order was adopted.

The following order was asked for by Senator Cross:

Ordered: That the Secretary of the Senate notify the Managers for the House of Representatives that the Senate is now organized for the trial of the Articles of Impeachment against the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, and is ready to receive the Managers of the impeachment at the bar of the Senate.

Senator Cross moved the adoption of the Order.

The motion was agreed to and the Order was adopted.

The Secretary of the Senate withdrew to notify the Managers.

The committee appointed by the House of Representatives to conduct the impeachment trial against the Honorable Richard Kelly, Circuit Judge of the Sixth Judicial Circuit of Florida, Composed of Honorable William G. O'Neill and Honorable C. Welborn Daniel, Managers on the part of the House of Representatives, appeared in the Senate Chamber accompanied by their Attorney, Honorable James J. Richardson, and were seated.

The Managers on the part of the House of Representatives requested the following motion, previously adopted by the House of Representatives, be adopted by the Court of Impeachment:

IN THE SENATE OF THE STATE OF FLORIDA,
SITTING AS A COURT OF IMPEACHMENT

IN RE: THE MATTER OF IMPEACHMENT OF
RICHARD KELLY, CIRCUIT JUDGE OF THE
SIXTH JUDICIAL CIRCUIT OF FLORIDA.

MOTION

COME NOW, the managers of the house of representatives, and move this honorable body to confirm and amend the order of the Honorable B. K. Roberts, Chief Justice of the Supreme Court of Florida, a copy of which appears in the Journal of the senate of the state of Florida for the 7th of June, 1963 at page 1828, which order by reference is hereby made a part hereof, and would show, as follows:

1. That on the day set out in the order, said managers

were informed that Richard Kelly, Circuit Judge for the Sixth Judicial Circuit of Florida, was about to remove from the office of the Circuit Judge in the Pasco County Courthouse, Dade City, Florida, certain records of that office, and that it was the belief of the board of managers that some of those records would be necessary to the proper presentation of these impeachment proceedings. Whereupon, the board of managers, through their attorney, James J. Richardson, a practicing solicitor of all courts in and of the State of Florida, informed the Secretary of said Judge Kelly, and his wife, that an order was imminent from the Chief Justice of the Supreme Court impounding the records of that office. Judge Kelly himself was not notified since he could not be located, but his wife and secretary agreed to inform him upon his arrival at the courthouse. The board of managers immediately filed a petition with said Chief Justice, applied for and obtained an immediate hearing, during the progress of which the board of managers was informed that said Judge Kelly was actively engaged in removing certain of the records from that office, whereupon said Chief Justice Roberts, by telephone, ordered the Honorable Leslie C. Bessinger, Sheriff of Pasco County, to go immediately to the office of the Circuit Judge and impound the records of that court until further notice. That the Chief Justice thereupon, at 2:45 P.M. on the same date, issued the order hereto attached and caused the same to be transmitted immediately to Pasco County for service by aforesaid sheriff.

2. The sheriff impounded all records, books and materials in that office, boxed the same under seal, and same have been delivered to and are now in the custody of the Chief Justice of the Florida Supreme Court.

3. That prior to the arrival of said sheriff, some materials, files, books and other things were removed by Judge Kelly, which should be placed in the custody of the Supreme Court or this Senate.

WHEREFORE, the board of managers moves this honorable body to:

1. Confirm the actions and the order of the Honorable B. K. Roberts, Chief Justice of the Supreme Court of Florida, and to amend the same by causing the records and things hereinbefore impounded according to said order, to be deposited with the secretary of the senate for the inspection and reproduction by all parties to this proceeding and to allow the board of managers and Judge Richard Kelly, by written agreement, to release such materials as are not necessary to the proper disposition of this proceeding to the presiding judge of the Sixth Judicial Circuit, where such records may properly be deemed the records of the court and to Judge Kelly, when such items of the records are deemed to be his personal records.

2. Enter an order commanding the said Richard Kelly to deliver to the secretary of the senate of the State of Florida those papers, documents and things removed by him or under his direction prior to the arrival of the sheriff of Pasco County at the office of the Circuit Judge on the 6th day of June, 1963.

FURTHER, that the office of the secretary of the senate be established as the office in which official pleadings and papers shall be filed in these proceedings and that the said secretary be granted those same powers ordinarily exercised by the Clerk of the Circuit Court in cases and proceedings in the circuit courts of this state.

WILLIAM G. O'NEILL

C. WELBORN DANIEL

Office of the Chief Justice
Supreme Court of Florida

IN RE IMPEACHMENT OF CIRCUIT
JUDGE RICHARD KELLY, SIXTH
JUDICIAL CIRCUIT OF FLORIDA.

ORDER IMPOUNDING RECORDS

This matter came on to be heard upon the ex parte sworn Petition of William G. O'Neill and C. Welborn Daniel, duly appointed and acting managers on the part of the House of Representatives of the State of Florida in the matter of impeachment of Circuit Judge Richard Kelly; and it appearing that the House of Representatives of the Legislature of Florida, on June 5, 1963, voted Articles of Impeachment against said Richard Kelly, Circuit Judge of the Sixth Judicial Circuit; and it further appearing that Section 34 of Article III of the Constitution of Florida provides that immediately upon the impeachment of any officer by the House of Representatives, he shall be disqualified from performing any of the duties of his office until acquitted by the Senate; and it further appearing from the sworn Petition, upon information and belief, that certain records, public and private, and office memoranda are being removed, or about to be removed, from the Courthouse in Pasco County, Florida and the office provided for the said Circuit Judge therein, and that, upon information and belief, the hereinabove records, memoranda and files will be vital to the presentation of said Articles of Impeachment before the Senate of the State of Florida; and it further appearing that Section 29 of Article III of the Constitution of Florida designates the Chief Justice to preside at the trial in this matter, and further provides that all impeachments shall be tried by the Senate; and representation having been made to this Court that the cause of the prosecution may suffer immediate and irreparable injury unless such records, memoranda and files are impounded; and the Chief Justice having discussed the matter with Judge Richard Kelly over long distance telephone subsequent to the filing of the Petition here, and that he, the said Circuit Judge Richard Kelly, having objected to the delivery of such documents to the petitioners, and after discussion, agreed with the undersigned that, in the event such records are impounded, they should be placed under seal and impounded with the Chief Justice until further lawful disposition should be made of same, and that the inspection of such records should in due time be made available to said Judge Richard Kelly in the preparation of his defense;

NOW, THEREFORE, IT IS ORDERED that all official records, official memoranda, official files and official documents, and any other papers heretofore used by the said Judge Richard Kelly in the performance of his duties as a Circuit Judge, shall be by the Sheriff of Pasco County, packaged under seal and delivered by the Sheriff of Pasco

County to the Chief Justice of the Supreme Court of Florida, then and there to be held until this Petition and this Order can be reviewed by the Senate of Florida; provided, however, that unless the Senate has acted on the Petition and reviewed this Order within a period of thirty (30) days from date, this Order shall expire and the impounded records returned to the Presiding Circuit Judge in and for Pasco County, Florida.

This is a temporary Order made to preserve the records for the benefit of the prosecution and defense pending review and consideration by the Senate of Florida.

Done and Ordered this 6th day of June A. D. 1963.

B. K. ROBERTS,
Chief Justice.

Senator Cross moved that the foregoing communication from the Chief Justice of the Supreme Court of Florida be spread upon the Journal of the Senate.

Which was agreed to and it was so ordered.

Senator Cross, Chairman of the Committee on Rules and Calendar, moved that the Senate fix 11:00 o'clock A. M., September 9, 1963, as the time to convene for the purpose of trying Circuit Judge Richard Kelly on the Articles of Impeachment preferred against him by the House of Representatives, as more fully set forth in House Resolution No. 2504, with the Chief Justice of the Florida Supreme Court presiding, as provided by Section 29, Article III, of the Constitution of the State of Florida.

Which was agreed to and it was so ordered.

The Chief Justice ruled as follows:

That part of the Motion seeking approval of the Order impounding certain records made by the Chief Justice on June 6, 1963, is moot in that this Body earlier today has approved and confirmed that judgment. The part of the Motion seeking to impound additional records is denied because it is vague, indefinite and uncertain as to the additional records it seeks to impound. This Order is without prejudice to the Managers to reapply for such relief at a later date in the event that they describe with more particularity the additional records sought to be impounded.

Senator Cross moved that the Senate sitting as a Court of Impeachment for the purpose of trying Articles of Impeachment preferred against Honorable Richard Kelly recess until 11:00 o'clock A. M., Monday, September 9, 1963.

Which was agreed to and it was so ordered.